

EXHIBIT A

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UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

DOCKET NO. 10-CV-155-SM

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ALVIN B. GALUTEN, MD, PSC, :

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Plaintiff, :

:

v. :

:

MEDICUS RADIOLOGY STAFFING, :

LLC, :

:

Defendant. :

* * * * *

DEPOSITION OF ALVIN B. GALUTEN, MD

This deposition was taken at the offices
of Sheehan Phinney Bass + Green, PA, 1000
Elm Street, Manchester, NH 03101, on
Wednesday, March 23, 2011, by and before
Deanna J. Dean, New Hampshire License No.
87, commencing at 10:15 a.m.

<p style="text-align: right;">170</p> <p>1 his cell number and his phone number, for me. His 2 home number as well. 3 Q. Okay. In case you needed him? 4 A. In case I wanted to speak to him. 5 Q. Okay. Do you remember anything more 6 about it? 7 A. No, sir. 8 Q. Do you remember anything about your 9 conversations with the other locums relative to your 10 departure? 11 A. Other than I was taking some time off 12 because of my back, I do not remember anything 13 specific. 14 Q. Okay. Help me to understand how this 15 works. I have a general understanding of how locums 16 work. Okay? But it's not a very thorough 17 understanding. 18 You show up at the hospital on April 30; 19 right? Somebody greets you and shows you to an 20 office; is that right? 21 A. In particular at Hardin or in general? 22 Q. Let's say at Hardin. 23 A. They had a first day orientation for the</p>	<p style="text-align: right;">172</p> <p>1 Q. Okay. And when you showed up on 2 April 30, you were staying at a hotel; right? 3 A. Yes, sir. 4 Q. Okay. And was that a Super 8 hotel or 5 do I have that wrong? 6 A. I think it was a Holiday Inn. I think. 7 Q. And how far away from the hospital was 8 the hotel? 9 A. I would guess between three and four 10 miles. 11 Q. All right. And how is it that you found 12 your way from Tennessee to the hotel? 13 And I don't mean how you navigated the 14 directions. I mean, did you drive a car? Did you -- 15 A. I drove a vehicle. 16 Q. All right. Was it your own personal 17 car? 18 A. It was a car, yes, sir. A car owned by 19 my corporation. 20 Q. Okay. We didn't talk too much about 21 that. 22 When did you set up your corporation? 23 A. The year would be around -- I would</p>
<p style="text-align: right;">171</p> <p>1 new -- newbies. 2 Q. Okay. And who conducted the 3 orientation? 4 A. I believe employees from Hardin. 5 Q. Okay. Was Mr. Welch involved in that? 6 A. I don't remember. It was more than one 7 person, though. 8 Q. Did you have an office there? 9 A. They did the orientation in a room. I 10 mean, a room with a bunch of us. 11 Q. But did you have an office at Hardin? 12 A. I sat in the same room, same office 13 every day. 14 Q. Okay. So they gave you -- 15 A. But it didn't have my name on it. But, 16 yes. 17 Q. But it was an office that you used 18 during that period of time, the three-week period of 19 time? 20 A. Yes. 21 Q. All right. And did anybody else use it 22 during that period of time? 23 A. Not that I'm aware of.</p>	<p style="text-align: right;">173</p> <p>1 guess around 1990. 2 Q. What was the purpose of setting up the 3 corporation? 4 A. Well, it's where all the income for the 5 business practice went through, as well as it was 6 responsible for taking care of all the payments for 7 malpractice insurance for all the radiologists, et 8 cetera, et cetera. So all the business accounts were 9 with the corporation. 10 Q. Okay. What kind of a car did the 11 corporation own that you used to go to the hospital? 12 A. A Lincoln. 13 Q. Okay. What year was it? 14 A. Maybe '99. 15 Q. All right. And it broke down, did it? 16 A. It did. 17 Q. All right. When did it break down? 18 A. It broke down a bunch of times. But it 19 broke down, I think my second week. 20 Q. Okay. 21 A. I believe. 22 Q. All right. So you're staying in a -- 23 you're staying in a Holiday Inn. You're going to be</p>

<p style="text-align: right;">174</p> <p>1 there for weeks; right? Months, in fact. At that 2 time you believe you're going to be there for months; 3 right? 4 What is it that you take with you? Is 5 it just a suitcase and off you go? 6 A. A suitcase. Cases of vegetables and 7 cans of stuff that most people don't want to eat. 8 Q. I'm intrigued. 9 A. And a dog. 10 Q. Oh. What kind of dog? 11 A. A little guy we found on the side of the 12 road left for dead, hit by a car, that we took in. 13 Q. When did you take him in? 14 A. It's probably been almost 11 years ago. 15 Q. Okay. So what kind of dog was it? 16 A. Mixed. He looks sort of like a fat -- 17 not a dachshund. Corgi. Looks like sort of a chubby 18 corgi. 19 Q. And you arranged to have a pet-friendly 20 hotel; right? 21 A. Yes, sir. 22 Q. You made that point. 23 And so when you got to the hotel, you</p>	<p style="text-align: right;">176</p> <p>1 take the book with you? Did you take something else 2 with you? 3 A. Actually, I'm missing a Paul and Juhl 4 radiology textbook. I don't know if I left it there 5 or not. I don't know where I left it. 6 Q. Okay. 7 A. I know I'm missing it, but I don't know 8 if it was there or I left it somewhere else. 9 Q. All right. Something happened between 10 you and the staff at the hotel; right? 11 A. Yes, sir. 12 Q. Okay. By the way, who arranged for you 13 to stay at that hotel? 14 A. The hospital, I think. I assume it was 15 Me dicus, but I mean -- not Medicus paid for it, I 16 assum e, but I assume -- I think the hospital. 17 Q. The hospital had a relationship with the 18 hotel. You're aware of that; right? 19 A. I think the woman -- I think someone in 20 the hospital knew someone at the hotel to allow me to 21 take the dog, I believe. 22 Q. Okay. I'm going to show you a couple of 23 statements, handwritten statements from the hotel</p>
<p style="text-align: right;">175</p> <p>1 had one room? 2 A. Yes. 3 Q. By the way, did you take pictures of 4 your family with you? 5 A. I probably had something in my wallet, 6 but -- 7 Q. You're not a -- you didn't take a framed 8 picture of your family? 9 A. No, no. 10 Q. No, you're not that sort? All right. 11 Okay. Well, what do you -- do you take 12 anything with you to the office or is it just a 13 sterile environment that you're sitting in, day after 14 day? 15 A. No. They supplied -- I mean, everything 16 in the office I needed was supplied. 17 Q. Okay. But you didn't bring any personal 18 effects with you to the office? 19 A. I might have brought a book or so -- I 20 mean, a radiology book. But other than that, no. 21 Q. Okay. All right. Now, when you 22 departed on April -- on May 20. Excuse me. 23 When you departed on May 20, did you</p>	<p style="text-align: right;">177</p> <p>1 employees, a few different hotel employees. Again, I 2 want you to take your time looking at those. 3 MR. McGRATH: We'll mark those as the 4 next exhibits, and we'll start with the shorter 5 of the two. 6 (Galuten Exhibit 8 is marked for 7 identification.) 8 Q. Tell me when you've -- 9 A. I've finished. 10 Q. We've marked that as Exhibit 8. 11 Were you aware that Kristie from the 12 hotel had prepared this statement? 13 A. No, sir. 14 Q. This is the first time you've seen it; 15 right? 16 A. Yes, sir. 17 Q. Okay. You stayed in Room No. 112? 18 A. Oh, I don't remember the number. 19 Q. That's what she indicates there; right? 20 A. It says 112. 21 Q. Yeah. Now, she talks about you 22 informing her of a confrontation between you and her 23 coworker, Thomas Lynn. Do you see that?</p>

<p style="text-align: right;">178</p> <p>1 A. I do.</p> <p>2 Q. It says here you regarded Mr. Lynn as</p> <p>3 becoming more feminine. Do you remember suggesting</p> <p>4 that to her?</p> <p>5 A. I don't remember suggesting that to her.</p> <p>6 I do remember that happening.</p> <p>7 Q. What was happening exactly?</p> <p>8 A. I asked the gentleman that worked in the</p> <p>9 evening -- my car had broken down and I asked him if</p> <p>10 he could possibly giving me a ride to the hospital.</p> <p>11 And he got very upset that I would ask him; that he</p> <p>12 couldn't do such; and then he started telling me --</p> <p>13 he got more and more anxious and he started telling</p> <p>14 me, "Aren't you that doctor with the dog?"</p> <p>15 "Yes."</p> <p>16 And he told me that, "Well, if you're a</p> <p>17 doctor, you should have a nicer car."</p> <p>18 And then he said he would not be giving</p> <p>19 me a ride but I had to get a cab. And he went behind</p> <p>20 the whatever -- desk -- and got a phone book and</p> <p>21 threw it towards me, to call a cab. And I called a</p> <p>22 cab.</p> <p>23 Q. Okay. Do you remember anything else</p>	<p style="text-align: right;">180</p> <p>1 A. It's possible.</p> <p>2 Q. I mean, she says it here. Do you think</p> <p>3 that she's lying about that?</p> <p>4 A. I don't -- I don't know that she's</p> <p>5 lying.</p> <p>6 Q. I mean, you've just testified that you</p> <p>7 actually thought at the time, hey, he's becoming</p> <p>8 more feminine. She says that you mentioned it to</p> <p>9 her. It makes sense that you probably did in fact</p> <p>10 mention it to her; right?</p> <p>11 A. It's possible.</p> <p>12 Q. Why would you mention something like</p> <p>13 that to her?</p> <p>14 A. I thought it was rather odd the way his</p> <p>15 whole behavior changed when he got upset.</p> <p>16 Q. She says here that you instructed her to</p> <p>17 feed your dog. Did you do that?</p> <p>18 A. I might have asked her. Because the</p> <p>19 people during the day will often walk the dog for me.</p> <p>20 Q. They walked your dog?</p> <p>21 A. They used to play with him.</p> <p>22 Q. Did you ask hotel employees to walk your</p> <p>23 dog?</p>
<p style="text-align: right;">179</p> <p>1 about that exchange that you haven't told me?</p> <p>2 A. I remember I asked him to speak to -- if</p> <p>3 I could speak to the manager about somehow arranging</p> <p>4 for a ride.</p> <p>5 Q. Okay. Anything else?</p> <p>6 A. I do not remember anything else.</p> <p>7 Q. So now I'm going to go back to the</p> <p>8 question that I asked that I don't think you've</p> <p>9 answered yet.</p> <p>10 What is it about what you just described</p> <p>11 that demonstrated that he was becoming more feminine</p> <p>12 during your argument?</p> <p>13 A. I'm sorry. Say again? What is it that</p> <p>14 I demonstrated?</p> <p>15 Q. What is it that he did --</p> <p>16 A. Oh.</p> <p>17 Q. -- that demonstrated that he was</p> <p>18 becoming more feminine?</p> <p>19 A. The way he talked. He became -- his</p> <p>20 voice became more effeminate as he was getting more</p> <p>21 anxious.</p> <p>22 Q. Okay. And do you think it's possible</p> <p>23 that you pointed that out to Kristie?</p>	<p style="text-align: right;">181</p> <p>1 A. No, sir. They used to -- in fact, I</p> <p>2 think initially I think people asked me if it was</p> <p>3 okay to play with him. I said, "Please." And if</p> <p>4 you -- and I said, "I'm gone most of the day."</p> <p>5 And they said, "Well, is it okay if we</p> <p>6 walk him?"</p> <p>7 And I said, "Sure." And I always said,</p> <p>8 "Let me know -- "If he does something, I'll clean it</p> <p>9 up. Just let me know where -- the approximate</p> <p>10 location where it is. I'll pick it up."</p> <p>11 Q. Okay. And did you ask her to feed your</p> <p>12 dog and walk your dog?</p> <p>13 A. If I came in -- it says here -- if it</p> <p>14 was a day my car was broken, I couldn't come in</p> <p>15 between or anything. It's possible I asked her that.</p> <p>16 I don't remember that.</p> <p>17 Q. You see how she says that you instructed</p> <p>18 her? You don't believe that's what happened?</p> <p>19 A. Oh, I might have asked. I don't believe</p> <p>20 I would instruct her, no, sir.</p> <p>21 Q. Might you have done it in a way that</p> <p>22 suggested to her that it was a demand you were</p> <p>23 making?</p>

<p style="text-align: right;">182</p> <p>1 A. I don't believe it should have been, no.</p> <p>2 The people there were very nice to myself as well as</p> <p>3 the dog.</p> <p>4 Q. Does it surprise you that she found the</p> <p>5 exchange between the two of you to be disturbing?</p> <p>6 A. I don't remember the exchange. But</p> <p>7 it's bothersome that she feels that way, yes.</p> <p>8 Q. Then she says that you asked how you</p> <p>9 were going to return to the hotel without</p> <p>10 transportation. Did you think it was their</p> <p>11 responsibility to provide transportation for you?</p> <p>12 A. Well, I learned in the morning that they</p> <p>13 couldn't -- they wouldn't -- they could not do such.</p> <p>14 Q. So why would you raise it with her?</p> <p>15 A. If they knew of any means of</p> <p>16 transportation. I had to get back to the hotel. It</p> <p>17 was about, I would guess, three-and-a-half-plus mile</p> <p>18 walk.</p> <p>19 Q. I think -- are you -- were you</p> <p>20 unfamiliar with the use of taxicabs?</p> <p>21 A. In that area, yes.</p> <p>22 Q. Well, earlier, you had been shown a</p> <p>23 phone book. Did you use the phone book to try to</p>	<p style="text-align: right;">184</p> <p>1 his kid stuff. He was nice enough to pick me up.</p> <p>2 Q. Your testimony is that the cab companies</p> <p>3 in the area could not pick you up?</p> <p>4 A. I did not know if they could.</p> <p>5 Q. Did you ask them?</p> <p>6 A. I -- I did not specifically ask them,</p> <p>7 no.</p> <p>8 Q. Were you trying avoid the cost of a cab?</p> <p>9 A. It wasn't my cost.</p> <p>10 Q. Okay. Whose cost was it?</p> <p>11 A. I assume it would be Medicus' cost.</p> <p>12 Q. Because your car broke down?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Did you seek to rent a car?</p> <p>15 A. Eventually, yes.</p> <p>16 Q. You were making \$3,000 a day. Right,</p> <p>17 sir?</p> <p>18 A. Yes, sir.</p> <p>19 Q. \$450 an hour overtime; right?</p> <p>20 A. Correct.</p> <p>21 Q. You made \$128,000 in three weeks;</p> <p>22 correct?</p> <p>23 A. I don't know the exact number.</p>
<p style="text-align: right;">183</p> <p>1 find a cab?</p> <p>2 A. I did.</p> <p>3 Q. And were there any taxicabs?</p> <p>4 A. There were a couple of names.</p> <p>5 Q. Okay. Did you call them?</p> <p>6 A. I did call one.</p> <p>7 Q. Okay. And what did you learn?</p> <p>8 A. Well, I called more than one. And the</p> <p>9 guy -- someone did pick me up.</p> <p>10 Q. Okay. So if you had used the phone book</p> <p>11 to identify a cab service, why would you then, after</p> <p>12 that, talk to Kristie about how are you going to find</p> <p>13 transportation to get to the hospital?</p> <p>14 A. Well, I had to get a long-term solution.</p> <p>15 I couldn't do this on a regular basis.</p> <p>16 Q. Why not?</p> <p>17 A. I'm sorry. Why not?</p> <p>18 Q. Why not?</p> <p>19 A. They didn't have a large volume of taxi</p> <p>20 service that would be able to be there a certain time</p> <p>21 or leave at a certain time, if you were being done.</p> <p>22 I mean, the guy who picked me up came in a -- I</p> <p>23 assume it was his Caravan or whatever from home, with</p>	<p style="text-align: right;">185</p> <p>1 Q. Does that sound accurate?</p> <p>2 A. It's possible that's an accurate number,</p> <p>3 but I don't know for certain.</p> <p>4 Q. You made \$128,000 in three weeks, and</p> <p>5 you were troubling hotel employees about how you were</p> <p>6 going to get three to four miles to work, sir?</p> <p>7 A. I thought it would be too long for me to</p> <p>8 walk in the morning, since I was there early.</p> <p>9 Q. Let's go to the next one.</p> <p>10 MR. McGRATH: Why don't we mark that as</p> <p>11 the next exhibit.</p> <p>12 (Galuten Exhibit 9 is marked for</p> <p>13 identification.)</p> <p>14 Q. Take your time and read that one,</p> <p>15 please.</p> <p>16 A. (Reviewing document)</p> <p>17 Q. You've had a chance to review that?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Now, this is a statement from Tom Lynn.</p> <p>20 Okay? This was the gentleman that you were referring</p> <p>21 to; right?</p> <p>22 A. Okay.</p> <p>23 Q. That apparently was becoming effeminate</p>

<p style="text-align: right;">186</p> <p>1 as he spoke to you?</p> <p>2 A. Okay.</p> <p>3 MR. HOWARD: I'm sorry. Does it</p> <p>4 indicate on here that it's a Thomas Lynn?</p> <p>5 MR. McGRATH: No, I'm deducing it from</p> <p>6 the other exhibit. We'll find our way down to</p> <p>7 the hotel maybe in the next month or so, and</p> <p>8 we'll have to confirm whose writing it is.</p> <p>9 Q. Now, you see his account differs</p> <p>10 dramatically from the account that you just gave;</p> <p>11 right?</p> <p>12 A. I see differences, yes, sir.</p> <p>13 Q. You don't think those differences are</p> <p>14 significant?</p> <p>15 A. Yes, they are.</p> <p>16 Q. Okay. Did you use derogatory language</p> <p>17 as he suggests?</p> <p>18 A. I do not remember that, no.</p> <p>19 Q. You might have, but you don't recall?</p> <p>20 A. I do not remember doing that at all.</p> <p>21 Q. But you may have?</p> <p>22 A. I don't remember doing such.</p> <p>23 Q. It says that you continued to insult</p>	<p style="text-align: right;">188</p> <p>1 going to have me arrested for assaulting me with a</p> <p>2 phone book," that's just untrue?</p> <p>3 A. I don't remember that. I don't know.</p> <p>4 Q. But you're not going to say that it's</p> <p>5 untrue?</p> <p>6 A. I don't remember saying it.</p> <p>7 Q. Okay. Do you remember calling 911?</p> <p>8 A. Maybe for a ride.</p> <p>9 Q. You would call 911 for a ride to work?</p> <p>10 A. Well, it says here I called to try to</p> <p>11 get the police to give me a ride.</p> <p>12 Q. Right. And I'm asking you, sir, is that</p> <p>13 something that you did?</p> <p>14 A. I don't remember. But I could -- I</p> <p>15 definitely needed to -- I wanted to get a ride, yes.</p> <p>16 Q. Okay. So you may have called 911 to get</p> <p>17 a ride?</p> <p>18 A. It says here I did.</p> <p>19 Q. And you might have done that; correct?</p> <p>20 A. Possibly.</p> <p>21 Q. All right. You don't find that</p> <p>22 disturbing behavior, sir?</p> <p>23 A. I find it disturbing I lost my temper.</p>
<p style="text-align: right;">187</p> <p>1 him. Do you remember that?</p> <p>2 A. I do not remember continuing to insult</p> <p>3 him.</p> <p>4 Q. Do you remember insulting him at all?</p> <p>5 A. I remember being rather annoyed when he</p> <p>6 tried -- when he threw a book towards me.</p> <p>7 Q. Did you tell him that you were going to</p> <p>8 make it your mission to see that he was fired?</p> <p>9 A. I do not remember saying that. I did</p> <p>10 remember saying something -- I would be surprised</p> <p>11 that they would let someone work that would treat the</p> <p>12 customers this way.</p> <p>13 Q. What way? Not driving you to work?</p> <p>14 A. No. Throwing a book at them.</p> <p>15 Q. I see.</p> <p>16 Now, when he tossed the phone book</p> <p>17 toward you, is it true that you told him that you</p> <p>18 were going to have him arrested for assaulting you</p> <p>19 with a phone book?</p> <p>20 A. I don't remember that. I might have</p> <p>21 thought of speaking to his supervisor, his manager</p> <p>22 about that, though.</p> <p>23 Q. Okay. So where he says, "He said he was</p>	<p style="text-align: right;">189</p> <p>1 Q. What evidences in this statement, what</p> <p>2 evidences the fact that you lost your temper?</p> <p>3 A. The fact that it annoyed me this much.</p> <p>4 His reaction annoyed me that much.</p> <p>5 Q. So you're saying that his reaction</p> <p>6 caused you to call 911?</p> <p>7 A. Well, no. The combination. If I called</p> <p>8 911, it would have been a combination of his throwing</p> <p>9 the book towards me or at me, as well as my need for</p> <p>10a ride .</p> <p>11 Q. Okay. Did you tell -- did you then tell</p> <p>12 him to shut up?</p> <p>13 A. I don't remember that.</p> <p>14 Q. You see there it says, "A guest in 114</p> <p>15 said that they'd stay with him to see that he was</p> <p>16 safe."</p> <p>17 Did you understand he did not feel safe</p> <p>18 in your presence? Did you understand that?</p> <p>19 A. I understand that from reading this. I</p> <p>20 did not understand that then, no.</p> <p>21 Q. At the time, no.</p> <p>22 Looking back on that now, if you did in</p> <p>23 fact tell him that you were going to have him</p>